Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States.

OCTOBER TERM, 1974.

No. 73-6739.

STEVEN COSTARELLI,
APPELLANT,

v.

COMMONWEALTH OF MASSACHUSETTS,
APPELLEE.

ON APPEAL FROM THE MUNICIPAL COURT
OF THE CITY OF BOSTON.

Motion for Leave to File Brief Amicus Curiae.

GERARD F. SCHAEFER,
Chief Counsel,
MALVINE NATHANSON,
Chief, Appeals Division,
MARGARET D. McGAUGHEY,
MASSACHUSETTS DEFENDERS COMMITTEE,
120 Boylston Street,
Boston, Massachusetts 02116.

BATEMAN & SLADE, INC., BOSTON, MASSACHUSETTS.

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The Massachusetts Defenders Committee hereby respectfully moves for leave to file the attached brief *amicus curiae* in this case. The consent of the attorneys for appellant and appellee have been obtained and are attached hereto.

The interest of the Massachusetts Defenders Committee arises from the fact that the Massachusetts Defenders Committee is the state-wide public defender agency for the Commonwealth of Massachusetts and as such represents numerous indigents charged with crime in the District Courts of the Commonwealth of Massachusetts. The resolution of the issues in this case, which calls into question the constitutionality of the trial de novo system, may substantially affect the procedural and substantive rights of our clients. In addition, the Massachusetts Defenders Committee is in a position to provide this Court with information concerning the operation of the trial de novo system and its effect on indigent defendants.

The Massachusetts Defenders Committee recognizes that this application is untimely under the rules of this Court. However, in view of the substantial involvement of the Massachusetts Defenders Committee in the representation of defendants in the District Courts, it is hoped that this Court will consider this motion favorably.

Respectfully submitted,

MALVINE NATHANSON,

MASSACHUSETTS DEFENDERS COMMITTEE,

120 Boylston Street,

Boston, Massachusetts 02116.

Massachusetts Defenders Committee

Appeals Division

120 Boylston Street, Room 600, Boston 02116

TELEPHONE:
(617) 482-6212

February 27, 1975

David A. Mills, Esq.
Assistant Attorney General
131 Tremont Street
Boston, Massachusetts 02111

RE: Steven Costarelli v. Commonwealth of Massachusetts
Supreme Court No. 73-6739; October Term, 1974

Dear Mr. Mills:

Pursuant to our earlier conversation, I would appreciate it if you would indicate your consent to the filing of an amicus brief in the above-entitled case by signing your name on the line below and returning this letter to me.

Very truly yours,

Malvine Nathanson

(Ms.) Malvine Nathanson
Chief Appellate Attorney

MN:mjc

I hereby give my consent for the Massachusetts Defenders Committee to file an amicus curiae brief in the above-entitled case.

David A. Mills, Esq.

BEST COPY AVAILABLE

Massachusetts Defenders Committee

Appeals Division

120 Boylston Street, Room 600, Boston 02116

TELEPHONE:
(617) 482-6212

February 27, 1975

Robert Hagopian, Esq.
Wrentham
Massachusetts 02093

RE: Steven Costarelli v. Commonwealth of Massachusetts
Supreme Court No. 73-6739; October Term, 1974

Dear Mr. Hagopian:

Pursuant to our earlier conversation, I would appreciate it if you would indicate your consent to the filing of an amicus brief in the above-entitled case by signing your name on the line below and returning this letter to me.

Very truly yours,

Malvine Nathanson

(Ms.) Malvine Nathanson
Chief Appellate Attorney

MN:mjc

I hereby give my consent for the Massachusetts Defenders Committee to file an amicus curiae brief in the above-entitled case.

Robert Hagopian, Esq.

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Massachusetts Defenders Committee.

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Brief of Amicus Curiae
Massachusetts Defenders Committee.

Interest of Amicus.

The Massachusetts Defenders Committee is the state-wide public defender agency for the Commonwealth of Massachusetts. As such, it has the responsibility of providing representation for indigents charged with crime in the Commonwealth.

The Massachusetts Defenders Committee appears in the District Courts in thirteen of the fourteen counties of the Commonwealth. During the year 1974, the Massachusetts Defenders Committee represented 30 per cent of the indigent defendants charged with crimes over which the District Courts had jurisdiction.

Costarelli v. *Commonwealth* deals with the rights of defendants charged with crime in the District Courts. The Massachusetts Defenders Committee, because of its extensive representation of such defendants, has a proper and legitimate concern with the resolution of the issues raised in *Costarelli*. Letters of the consent of both parties to the submission of this brief have been filed with the office of the Clerk of the Supreme Court of the United States.

Argument.

This brief is submitted to provide the Court with the factual background of the trial de novo system as it operates in the Commonwealth of Massachusetts. Its purpose is to enable the Court to assess the practical impact its decision would have, not only on the parties to the suit before the Court, but on the administration of justice in the Commonwealth of Massachusetts.

A. Factual Statement of the Operation of the Trial De Novo System in Massachusetts.

The judicial system of the Commonwealth of Massachusetts is composed of a two-tier trial court structure. The lower

tribunal is the District Court,[1] which sits part or fulltime in seventy-two locations throughout the state (G.L. c. 218, § 1). The higher tribunal is the Superior Court, which operates in each of the Commonwealth's fourteen counties.

A criminal case may be initiated in this two-tier system in either of two ways. The first manner of proceeding is by means of indictment by grand jury (G.L. c. 263, § 4). Following indictment, a case is heard with or without a jury in the Superior Court (G.L. c. 278, § 2). As a matter of practice, indictment by grand jury is employed only where a major felony, such as murder, is involved, cases comprising less than one per cent of charges brought in the Commonwealth.[2]

The second means of proceeding in a criminal case is by filing a complaint in the lower tribunal, the District Court. G.L. c. 218, § 26, provides that the District Courts shall have original jurisdiction, concurrent with the Superior Court, of all misdemeanors (excepting libels), all felonies punishable by imprisonment in the state's prison for a term not exceeding five years, and certain specifically enumerated crimes.[3] Approximately 99 per cent of criminal cases are initiated in the District Court.

In most cases where the charge carries a maximum sentence in excess of five years, the District Court is without jurisdiction

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[1] The District Courts include the Municipal Court of the City of Boston. G.L. c. 218, § 1.

[2] Estimates of the distribution of cases initiated by grand jury indictment as opposed to complaint in the District Court are derived from statistics compiled by the Massachusetts Defenders Committee concerning defendants represented by the Committee.

[3] The specifically enumerated charges, all of which would otherwise be exempted from the original jurisdiction of the District Court because the maximum penalty exceeds five years, include breaking and entering in the nighttime (G.L. c. 266, § 16), breaking and entering in the daytime (G.L. c. 266, § 17), and entering a dwellinghouse (G.L. c. 266, § 18).

to try the merits (G.L. c. 218, § 26). In such instances, a hearing is held in the District Court to determine whether probable cause exists to bind the accused over to the Superior Court for trial (G.L. c. 218, § 30). In cases begun in the District Court over which the District Court has concurrent jurisdiction with the Superior Court, disposition may be made in any of four ways.

First, the accused may plead guilty to the charges and be sentenced by the District Court. Second, an accused may admit to sufficient facts to support a finding of guilty and submit to a finding of guilty and the imposition of sentence by the District Court. By admitting to sufficient facts, an accused essentially pleads nolo contendere before the District Court. A third means of disposition is for the District Court to decline to exercise its jurisdiction and hold a hearing to determine whether probable cause exists to hold the accused for trial in the Superior Court (G.L. c. 218, § 30). In such a case, the individual will be indicted by grand jury pursuant to G.L. c. 263, § 4, and the case will be treated as if begun in the Superior Court in the first instance.

The fourth option for disposition is a trial on the merits before the District Court sitting without a jury. The full panoply of due process rights afforded in trials by the Superior Court sitting without a jury obtain at the District Court trial except that no stenographic recording is required.[4] Counsel is appointed to defend the accused (G.L. c. 263, § 5); compulsory process of witnesses issues (G.L. c. 218, § 37; G.L. c. 263, § 5); the accused is permitted to confront his accusers (G.L. c. 263, § 5).

[4] While no stenographic transcription of District Court proceedings is required by law, as a matter of practice, multi-track tape recordings are employed in some sessions of the District Court. Rule 46 of the Rules of the District Court. An accused who is able to pay for stenographic recording of the District Court proceedings may have a stenographer present (G.L. c. 218, § 27A).

As a matter of practice, final disposition of a case in the District Court occurs not longer than two weeks after the filing of the complaint. G.L. c. 276, § 35, provides that no continuance for a period exceeding ten days may be granted without the consent of the accused.

A defendant who has pleaded guilty before the District Court has no right to appeal the merits of his case. *Commonwealth* v. *Crapo*, 212 Mass. 209 (1912); Kent B. Smith, *Criminal Practice and Procedure*, Massachusetts Practice Series, vol. 30, § 754. Review of the sentence imposed may be obtained, however, by filing a claim of appeal before the Superior Court sitting as the Appellate Division (G.L. c. 278, § 28B). Consequently, few, if any, defendants plead guilty before the District Court.

An accused who admits to facts sufficient to support a finding of guilty essentially pleads guilty before the District Court, but does not waive his right to trial de novo before the Superior Court. Similarly, a defendant who has been tried before the District Court is afforded a trial de novo in the Superior Court on both the question of guilt and the sentence received (G.L. c. 278, § 18). Appeal is taken from District Court findings in approximately 3 per cent of criminal cases initiated in that tribunal.[5]

Where an appeal is claimed either from the finding of guilt of the District Court or the sentence imposed by that tribunal, a trial de novo may be heard in any of three tribunals. In cases where a misdemeanor is charged, the accused may elect a trial de novo before a session of the District Court sitting

[5] Statistics compiled by The Honorable Franklin Flaschner, Chief Justice of the District Courts of Massachusetts, for the year ending June 30, 1974 (Appendix A), indicate that 533,661 complaints for charges other than parking violations were filed in the District Court during that period. Of those, appeals were taken in 14,999 cases.

with a jury of six members (G.L. c. 218, § 27A; G.L. c. 278, § 18). A defendant convicted of a misdemeanor by a District Court in Suffolk County (including the city of Boston) may claim a trial de novo before a jury of twelve presided over by a justice of the District Court sitting as a justice of the Superior Court (G.L. c. 278, § 18A). In any case where a felony has been charged, de novo trial may be claimed to a felony session of the Superior Court (G.L. c. 278, § 18). There, the defendant may plead guilty or be tried by the Superior Court sitting with or without a jury.

Where a sentence of less than six months imprisonment has been imposed by the District Court, appeal must be claimed at the time the sentence is awarded (Smith, *supra*, at § 743). Where a term of more than six months has been imposed, a claim of appeal must be filed within 24 hours of sentencing by the District Court (G.L. c. 218, § 31). In any case, G.L. c. 278, § 18, requires that the appealed case be entered in the Superior Court on the next return date after the appeal is taken, usually the Monday following imposition of sentence. A claim of appeal may be withdrawn at any time before action is taken by the Superior Court (G.L. c. 278, § 25), and as a matter of practice may be withdrawn by permission of the court at any time before a jury is empanelled.

If the appeal is pursued, however, the case is treated as if begun in the Superior Court in the first instance, except that neither indictment by the grand jury nor arraignment before the Superior Court is required. The sentence imposed by the District Court does not take effect (G.L. c. 278, § 18).

B. The Right to Trial by Jury in the First Instance is Not Inconsistent with the Trial De Novo System as it Operates in the Commonwealth of Massachusetts.

Amicus agrees with the appellant in this case that the right to trial by jury in the first instance is secured by the Sixth and

Fourteenth Amendments to the Constitution of the United States. *Duncan* v. *Louisiana*, 391 U.S. 145, 147 (1968); *Callan* v. *Wilson*, 127 U.S. 540 (1888). However, amicus is concerned lest this Court be persuaded that enforcement of the right necessitates the abolition of the trial de novo system as it operates in the Commonwealth of Massachusetts, or conclude that the trial de novo system is constitutionally objectionable. Amicus urges that the right to trial by jury in the first instance can be recognized within the existing structure and will seldom be exercised by defendants because in the vast majority of cases the trial de novo system operates to the advantage of criminal defendants.

Appellant's brief contends that the threat of increased sentence after appeal from the District Court to the Superior Court chills the exercise of the Sixth Amendment right to trial by jury, which right is provided only in the Superior Court (Appellant's brief, pp. 25-38). The experience of the Massachusetts Defenders Committee has been that the sentence imposed by the District Court is seldom, if ever, raised after appeal to the Superior Court. In fact, sentences given by the District Court are frequently lowered by the Superior Court. Moreover, of sentences imposed by the District Court, substantially less than 20 per cent result in commitment (Appendix B). Only 9 percent of the Committee's clients elect to appeal their cases (Appendix B).[6]

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[6] In any event, a defendant claiming an appeal to the Superior Court who is threatened with an increased sentence may withdraw his appeal at any time (G.L. c. 278, § 25). Thus, an accused is not penalized by asserting his right to trial de novo in the Superior Court. Rather, he not only knows the outer limits of his liability before claiming an appeal, but in fact may expect a reasonable likelihood that his sentence will be reduced by the Superior Court. The de novo system, therefore, instead of increasing the "anxiety and concern of the accused," in actuality reduces it. *Barker* v. *Wingo*, 407 U.S. 514, 532 (1972).

A second contention advanced by the appellant is that interposing a trial by the District Court between the filing of a complaint and a trial by jury in the Superior Court deprives a criminal defendant of his Sixth Amendment right to speedy trial (Appellant's Brief, pp. 41-45). As has been pointed out above, the Massachusetts statute provides that no continuance may be granted in the District Court for a period exceeding ten days unless the consent of the accused is obtained (G.L. c. 276, § 35). Absent delay at the behest of the defendant, District Court proceedings usually begin within ten days after the filing of the complaint. As a matter of practice, the proceedings in the lower court are ordinarily terminated after one day of hearing. Thus, the longest delay an accused claiming trial usually suffers in the District Court is a period of ten days to two weeks. Further, as a matter of practice, a defendant whose case is initiated in the District Court may actually appear before a jury in the Superior Court faster than a defendant whose case is begun by indictment by grand jury.[7]

[7] A defendant who wants an immediate trial by jury may admit to the facts before the District Court and submit to a finding of guilty and imposition of sentence by that court the first time he appears. By statute, the case is then entered in the Superior Court on the return date following the day sentence is imposed (G.L. c. 278, § 18). When the case is entered in the Superior Court, no indictment by grand jury or arraignment before the Superior Court is required.

By contrast, a defendant whose case is begun by indictment by grand jury often must wait months before the charges are brought for trial before a jury. In many of the major urban areas of Massachusetts, where a grand jury sits monthly, an indictment may be obtained in a month's time. In the outlying counties, however, a defendant may have to wait for a period of three to six months for a grand jury to convene. Once an indictment is procured, a defendant must still be arraigned in the Superior Court and his case must be set down for pretrial conference before trial may commence. Thus, whereas an indicted accused may suffer a delay in excess of six months before being brought before a jury, a defendant whose case is begun in the District Court may stand ready for trial before a jury within weeks of the filing of the complaint.

Moreover, should this Court declare the existing trial de novo system unconstitutional, the existing delays in bringing criminal cases to trial would not be eliminated. On the contrary, forcing all cases to trial before the already overburdened Superior Courts of Massachusetts would merely exacerbate existing delays.

A third contention advanced by appellant is that the trial de novo system imposes an intolerable burden on the right to trial by jury because of the expense involved in defending two proceedings (Appellant's Brief, pp. 25-29). Appellant points to the financial consequences of paying witness and counsel fees as well as bail bondsman premiums.

With regard to witness and counsel fees, such expenses are incurred for at most one to two days when proceedings are initiated in the District Court. Where the District Court proceedings result in a finding of not guilty, of course no additional fees are required. Moreover, in the experience of the Massachusetts Defenders Committee, a case which is first tried in the District Court requires substantially less preparation time than a case initiated by indictment because the government's basic contentions have been exposed at the District Court hearing. Thus, the District Court system, rather than increasing attorney costs, in fact reduces them.

With regard to bail bondsman premiums, that expense is incurred only once, whether the case is initiated by grand jury indictment or by a complaint in the District Court (G.L. c. 278, § 18). Under no circumstances is bail forfeited merely because an appeal is taken to the Superior Court.

Thus, some of the burdens alleged to be imposed on the exercise of the right to trial by jury by the de novo system do not exist or are not as severe as is asserted in appellant's brief. Further, in the opinion of the Massachusetts Defenders Committee, substantial advantages inure to most defendants whose cases are initiated by complaint in the District Court.

The first benefit an accused obtains by virtue of the de novo system is a speedy initial determination of innocence or guilt. Within two weeks a case may be terminated altogether.

A second substantial advantage resulting from the trial de novo system is that an accused has two opportunities to be found not guilty. If a defendant loses his case in the District Court, an entirely new proceeding may be commenced in the Superior Court, at which the defendant resumes his constitutional presumption of innocence and defends his case again.

A third benefit reaped from the de novo procedure is that the District Court proceedings provide a defendant with virtually complete discovery of the Commonwealth's case.[8] At the District Court level, a defendant may file all discovery motions permitted in the Superior Court (G.L. c. 263, § 5). The defense may therefore both expose the witnesses for the government and solidify their testimony for impeachment purposes at a later Superior Court trial.

Not only does the defendant incur advantages by the trial de novo system, but the Commonwealth is benefited as well. The Commonwealth, like defendants, has an interest in the quick and efficient determination of criminal cases. Ninety-seven per cent of cases initiated in the District Court are resolved in that tribunal, at a substantially reduced cost (Appendix A).

There are cases where, because of the stigma flowing from a finding of guilty in the District Court or because of adverse consequences resulting automatically from a conviction in the District Court, a defendant may wish to avail himself of his

[8] Unlike the federal criminal justice system, Massachusetts has no counterpart of the "Jencks Act," 18 U.S.C.A. § 3500. Moreover, only recently were Massachusetts defendants awarded the right to inspect the minutes of grand jury proceedings. *Commonwealth* v. *Dominico*, Mass. App. Ct. Adv. Sh. (1974) 49.

right to trial by jury in the first instance.[9] It is the position of amicus that a defendant who wishes to exercise that right should be permitted to do so. *Callan* v. *Wilson*, *supra*, 127 U.S. 540 (1888); *Duncan* v. *Louisiana*, *supra*, 391 U.S. 145 (1968).

What the parties to this case have not made clear, however, is that affording a trial by jury in the first instance does not necessitate abolition of the trial de novo system. Rather, granting the right would mean only that in a case where the defendant moves for a trial by jury in the first instance, the District Court judge would be required to exercise the option provided by the Massachusetts statute to hold a probable cause hearing instead of a trial and, if probable cause is found, bind the defendant over to the grand jury. See *Myers* v. *Commonwealth*, Mass. Adv. Sh. (1973) 1045; *Corey* v. *Commonwealth*, Mass. Adv. Sh. (1973) 1237.

It is the position of amicus that this Court should hold in favor of the appellant and recognize the right to trial by jury in the first instance. However, amicus urges the Court to do so in a manner consistent with the Massachusetts trial de novo system.

[9] For example, G.L. c. 90, § 24, under which appellant in this case was convicted, provides that upon a finding of guilty of any of the charges enumerated in that section, the registrar of motor vehicles shall revoke the licence of the accused immediately, and no appeal shall operate to stay the revocation of the license. Under § 24, therefore, immediate and automatic injury results from a finding of guilt in the District Court, made without a trial by jury. Unlike all other criminal cases before that tribunal, execution of the penalty is not stayed pending appeal to the Superior Court. See also G.L. c. 90, §§ 20, 22A, 22F; G.L. c. 266, § 28. Cases charged under G.L. c. 90, § 24, however, comprise less than 6 per cent of criminal complaints brought in the District Court (Appendix A).

Conclusion.

For the above-stated reasons, amicus curiae, the Massachusetts Defenders Committee, concludes that the conviction below should be reversed.

Respectfully submitted,

GERARD F. SCHAEFER,
Chief Counsel,
MALVINE NATHANSON,
Chief, Appeals Division,
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Counsel for Amicus Curiae.

Appendix A.

STATISTICS FOR THE DISTRICT COURTS OF MASSACHUSETTS FOR THE YEAR ENDING JUNE 30, 1974, AS REPORTED BY THE CLERKS OF SAID COURTS

Compiled by the office of the Chief Justice of the District Courts

	DISTRICT COURTS arranged in accordance with 1970 CENSUS	1 Total Civil Writs Entered	2 Trials Less Summary Process	3 Summary Process Entered (Included in Column 1)	4 Summary Process Tried	5 Removals to Superior Court	6 Reported to Appellate Division	7 Reported to Supreme Judicial Court	8 Supplementary Process Entered	9 Small Claims Entered	10 Total Criminal Complaints (except Parking Complaints)	11 Narcotics Harmful Drugs, etc.	12 Gaming and/or Lottery Cases	13 Operating Under Influence of Intoxicating Liquor	14 Operating Under Influence of Drugs	15 Operating so as to Endanger	16 Using Without Authority and Larceny of Motor Vehicle	17 All Other Motor Vehicle Complaints (except Parking)	18† All Other Criminal Complaints	19 Criminal Parking Complaints	20 Criminal Appeals	21 Juvenile Drug Complaints	22 All Other Juvenile Complaints	23 Neglected Children	24 Parking Tickets Returned	25 Commitments of Mentally Ill	26 Neglect of Family Non-Support: Number of New Cases	27 Neglect of Family Non-Support: Amount of Money Collected	28 Uniform Reciprocal Enforcement of Support Act G.L.C. 273A: Cases Initiated	29 Uniform Reciprocal Enforcement of Support Act G.L.C. 273A: Cases Received from Other States	30 Uniform Reciprocal Enforcement of Support Act G.L.C. 273A: Amount of Money Collected	31 Remand or Transfer Cases Acts 1958, C. 359: Cases Received	32 Remand or Transfer Cases Acts 1958, C. 359: Tried	33 Remand or Transfer Cases Acts 1958, C. 359: Retransferred to Superior Court after Trial	34 Remand or Transfer Cases Acts 1958, C. 359: Dispositions, Agreements, Trials, Defaults, Appeals, Dismissals, Settlements, etc.	35 Remand or Transfer Cases Acts 1958, C. 359: Pending	
1	Central Worcester	4,380	238	837	139	120	3	2	1,658	3,469	36,595	703	47	423	2	184	195	25,974	9,067	24,579	989	-	-	-	118,362	66	43	53,151.74	32	48	155,084.68	1,035	135	57	897	2,240	1
2	Springfield	3,635	1,104	624	82	194	5	0	2,384	5,733	31,239	882	132	581	8	356	202	22,489	6,589	93,490	715	-	-	-	43,281	271	151	165,200.69	34	111	250,640.77	169	70	39	352	266	2
3	East Norfolk, Quincy	3,881	517	343	117	206	1	0	1,143	3,032	20,348	481	11	657	10	408	118	15,865	2,798	1,072	406	92	1,488	3	49,424	73	66	64,078.50	53	36	158,341.28	306	43	16	341	458	3
4	1st Eastern Middlesex, Malden	3,211	328	345	263	234	0	0	1,140	2,711	12,642	388	11	339	19	186	218	9,209	2,272	24,163	330	60	1,269	3	86,419	28	38	167,930.03	10	26	121,463.69	285	277	20	341	257	4
5	Lowell	2,573	166	705	195	116	2	1	867	7,483	14,250	348	60	361	7	196	171	6,459	6,648	3,995	493	39	1,476	76	15,414	140	236	566,348.49	39	17	171,699.50	295	97	19	406	364	5
6	3rd East, Middlesex, Cambridge	3,121	258	384	83	153	11	2	823	2,273	13,101	257	23	174	4	155	242	9,539	2,707	51,074	494	21	1,055	10	283,513	104	57	83,439.03	29	28	139,910.26	162	85	66	282	290	6
7	Dorchester	2,617	414	1,344	247	88	4	0	2,023	1,972	9,789	421	222	265	3	328	188	4,507	3,855	45,198	78	36	1,356	18	22,424	23	138	443,016.88	40	59	112,905.63	208	455	96	812	180	7
8	Southern Essex, Lynn	1,634	235	403	159	49	0	0	686	2,190	10,926	264	14	377	13	224	108	7,826	2,100	1,357	326	36	894	8	7,524	65	36	147,434.80	29	24	140,320.32	261	45	26	278	41	8
9	4th East, Middlesex, Woburn	1,715	278	138	48	156	4	0	654	2,054	11,483	332	51	306	7	202	45	7,522	3,018	15,108	505	58	863	10	58,453	2	95	96,290.85	22	18	96,234.92	252	92	10	298	108	9
10	Third Bristol, New Bedford	2,072	223	364	152	141	1	0	2,184	4,844	12,410	564	195	274	5	209	159	5,909	5,115	8,798	373	-	-	-	7,524	65	36	147,434.80	29	24	140,320.32	261	45	26	278	41	9
11	Northern Norfolk, Dedham	1,349	116	120	19	105	3	0	862	1,281	8,416	120	3	170	1	79	84	6,532	1,207	3,415	400	43	678	0	15,554	72	12	27,852.01	30	15	100,640.26	111	46	42	157	65	11
12	Lawrence	1,607	295	354	94	118	1	0	410	1,304	8,703	280	39	171	14	105	107	4,622	2,964	3,742	398	27	714	37	25,947	79	95	96,513.66	23	25	83,679.67	191	27	7	209	81	12
13	Second Bristol, Fall River	1,322	84	189	62	79	3	0	356	1,454	9,940	314	11	157	12	134	71	3,976	2,965	9,810	87	-	-	-	58,915	29	18	30,330.76	14	10	83,488.14	187	30	12	184	128	13
14	West Roxbury	1,049	160	451	120	51	0	0	1,005	1,690	10,726	384	98	393	15	519	497	5,925	2,895	7,704	151	42	862	11	15,730	95	37	99,588.87	58	44	103,048.94	82	43	8	132	128	14
15	First Essex, Salem	1,491	230	244	205	75	0	0	446	1,429	9,333	156	5	226	7	208	36	6,465	2,210	2,567	55	28	652	8	30,775	53	24	164,921.69	14	10	83,488.14	187	30	12	184	128	14
16	1st So. Middlesex, Framingham	1,565	45	248	22	136	3	0	890	1,836	14,970	422	22	425	1	282	58	11,098	2,662	1,558	480	32	555	5	81,325	146	5	51,780.90	30	20	74,682.06	57	13	8	32	11	15
17	Brockton	2,042	263	590	255	202	4	0	825	2,222	11,764	523	4	577	17	363	133	5,878	4,269	5,291	243	78	1,231	34	19,191	400	43	334,583.67	21	23	111,420.61	156	16	6	175	319	16
18	Hampshire, Northampton	557	58	102	45	36	2	0	113	1,438	10,945	551	0	382	7	335	104	7,842	1,724	2,241	480	32	555	5	81,325	146	5	51,780.90	30	20	74,682.06	57	13	8	32	11	17
19	2nd Plymouth, Hingham	988	210	110	37	39	2	0	673	1,354	9,747	235	0	403	11	360	77	6,439	2,216	1,894	573	42	1,011	2	2,710	41	40	210,805.51	40	20	102,491.86	50	22	4	26	72	18
20	2nd East, Middlesex, Waltham	2,348	224	142	74	121	2	0	489	1,514	13,595	439	13	293	22	227	70	11,369	1,216	11,537	220	23	581	4	51,238	92	14	31,951.04	9	14	49,799.80	200	68	33	161	176	19
21	Central Middlesex, Concord	767	86	66	33	53	0	0	285	942	16,307	347	0	329	7	152	69	13,769	1,434	3,266	530	63	855	4	11,890	14	43	65,681.15	13	22	79,739.07	90	27	13	94	0	20
22	Roxbury	1,843	80	1,263	310	65	2	1	1,222	1,321	14,240	559	117	315	9	273	315	8,088	4,364	93,359	241	-	-	-	314,853	37	247	239,782.40	54	62	213,076.80	92	35	1	94	80	21
23	Newton	1,210	197	57	26	121	2	0	391	1,097	5,572	98	0	57	7	40	51	4,056	1,263	2,596	150	7	391	2	58,703	11	10	20,751.00	8	9	47,941.11	162	49	30	239	79	22
24	Western Norfolk, Wrentham	636	92	89	22	34	0	0	347	1,689	9,584	209	2	228	0	322	58	6,785	1,980	42	175	32	931	3	1,271	61	25	102,765.16	26	35	55,328.32	83	44	11	120	61	23
25	Somerville	1,012	157	194	118	92	4	0	574	1,308	3,940	248	39	44	2	38	94	5,060	1,415	12,489	137	25	321	0	64,306	8	8	86,137.00	53	63	36,514.33	205	58	15	282	159	24
26	First Bristol, Taunton	823	18	150	45	34	0	0	225	1,748	6,294	218	5	232	4	425	139	3,534	1,667	1,417	417	-	-	-	6,629	54	73	100,473.00	26	25	63,008.29	54	14	6	55	44	25
27	Central Berkshire, Pittsfield	699	41	162	114	46	0	0	134	1,069	5,307	123	9	165	2	209	11	3,124	1,664	6,502	211	6	241	12	55,179	6	105	571,078.25	39	19	69,970.39	34	8	4	36	15	26
28	Chelsea	1,061	150	264	107	76	0	0	581	1,090	7,876	294	102	162	8	211	110	4,426	2,563	2,010	261	27	741	25	9,310	1	68	362,476.33	8	10	13,873.00	85	31	1	89	237	27
29	Fourth Bristol, Attleboro	744	105	95	38	58	0	0	216	1,251	7,216	62	0	187	1	259	36	2,040	4,631	509	94	-	-	-	2,218	25	57	118,217.26	25	35	56,323.05	43	13	7	44	30	28
30	First Barnstable, Barnstable	1,691	57	125	47	92	2	0	433	2,837	12,330	70	63	573	4	395	53	7,431	3,741	1,841	175	23	1,145	1	1,511	41	43	49,216.36	27	37	101,792.37	66	17	8	70	29	29
31*	Chicopee	159	23	88	86	8	1	0	38	609	5,155	160	5	139	2	72	42	3,709	1,026	0	36	20	362	29	338	8	46	59,977.14	45	26	24,817.21	4	14	5	14	0	30
32	Brighton	995	82	337	49	65	1	0	325	782	6,453	199	76	128	5	98	50	3,134	2,763	995	75	9	200	4	31,770	4	28	96,212.36	11	21	47,646.49	55	17	3	57	31	31
33	Central No. Essex, Haverhill	770	240	111	51	76	3	0	1,530	1,836	5,539	77	30	314	0	163	32	2,834	2,089	367	115	9	316	19	916	10	85	99,076.00	44	44	56,722.80	89	20	7	67	53	32
34	East Boston	527	72	197	47	51	0	0	486	828	3,231	129	29	53	8	50	78	1,686	1,198	26,442	249	13	198	10	88,045	6	165	106,531.22	20	15	40,895.60	38	14	7	61	54	33
35	1st So. Worcester, Dudley	414	48	98	71	11	0	0	132	995	9,149	200	13	134	3	104	33	7,521	1,141	226	216	28	382	4	4,133	6	42	56,436.46	47	75	87,253.48	116	30	22	134	78	34
36	Third Plymouth, Plymouth	909	181	137	26	54	4	0	429	1,926	7,039	246	3	318	1	349	76	4,881	1,165	139	218	29	1,074	7	2,874	14	15	115,299.45	12	31	43,891.14	46	1	2	31	26	35
37	Peabody	616	59	53	23	44	1	0	402	892	6,257	128	0	192	0	120	35	4,181	1,597	780	135	15	1,201	1	6,667	2	13	48,677.60	8	11	33,392.94	136	44	17	183	120	36
38	Brookline	976	171	120	37	53	4	1	270	817	1,845	11	0	28	1	23	38	989	755	9,509	39	0	138	1	119,401	1	11	24,560.00	6	7	94,475.79	88	21	14	118	67	37
39	Southern Norfolk, Stoughton	726	182	54	20	55	0	0	283	845	5,879	171	1	211	4	299	61	3,909	1,223	25	121	28	638	1	1,097	0	11	87,261.43	9	4	29,487.20	82	52	30	104	51	38
40	Fitchburg	1,021	129	81	54	14	0	0	305	1,406	5,384	114	2	211	2	161	30	3,728	1,136	62	142	22	418	11	18,542	0	121	185,922.91	31	21	41,198.62	118	85	15	165	229	39
41	Franklin, Greenfield	267	42	46	46	14	0	0	666	1,326	5,279	110	0	191	1	175	33	3,349	1,420	392	147	37	504	23	5,783	2	38	45,941.16	15	18	56,561.18	9	2	0	7	19	40
42	South Boston	276	6	121	9	11	1	0	294	556	2,098	56	61	78	0	71	40	293	1,497	10,436	5	2	371	3	25,504	3	89	120,295.82	1	13	24,109.14	17	3	0	23	59	41
43	Holyoke	226	33	68	25	18	1	0	69	622	6,494	173	16	207	1	84	17	2,114	3,880	7,559	323	30	572	7	12,169	12	8	114,255.90	1	9	40,708.64	97	31	2	102	37	42
44	1st No. Middlesex, Ayer	232	28	26	6	14	0	0	174	1,066	8,889	135	0	224	5	148	36	6,969	1,372	0	169	16	383	28	0	5	55	102,022.75	30	34	65,530.00	52	11	0	63	35	43
45	1st So. Worcester, Gardner	195	7	28	0	19	0	0	287	634	5,018	185	3	214	2	68	37	3,279	1,230	3,234	537	17	426	5	6,897	84	26	20,834.93	5	8	42,055.25	41	4	3	39	2	44
46	Marlborough	507	40	131	27	9	1	0	226	1,090	4,094	165	1	111	2	69	8	2,551	1,187	2,281	137	29	361	5	10,172	5	27	92,407.83	23	12	71,677.66	38	9	3	43	12	45
47	2nd East, Worcester, Clinton	264	30	46	21	9	0	0	249	436	5,296	93	2	119	6	135	23	3,956	962	0	142	35	445	0	5,035	3	39	96,551.41	25	10	48,468.47	73	13	6	73	62	46
48	Western Hampden, Westfield	225	27	53	25	12	0	0	40	770	4,667	112	18	184	0	175	31	3,488	659	74	85	23	311	4	2,320	0	1	25,732.96	6	22	41,102.73	54	74	20	354	371	47
49	4th Plymouth, Wareham	562	12	75	45	35	0	0	222	1,476	6,073	224	2	203	13	309	31	3,608	1,683	0	135	28	514	1	25	5	11	57,594.90	27	23	32,462.84	31	2	1	25	16	48
50	1st East, Worcester, Westborough	363	90	67	35	19	0	0	186	734	11,205	324	1	128	4	84	46	9,058	1,560	710	276	54	466	0	2,834	39	15	77,582.89	7	12	76,127.02	140	81	21	161	141	49
51	Eastern Essex, Gloucester	346	117	91	70	16	1	0	150	623	3,656	236	2	266	0	173	28	1,429	1,520	0	213	30	373	0	32,004	0	113	90,794.99	26	9	53,945.26	66	19	4	90	22	50
52	Eastern Hampden, Palmer	128	31	25	9	0	0	0	51	736	4,941	101	0	194	1	104	27	3,815	697	194	111	22	381	5	523	9	20	67,850.50	20	20	46,119.75	175	51	10	175	196	51
53*	Leominster	202	10	53	48	6	0	0	295	775	2,484	42	1	73	0	62	26	1,491	789	0	45	7	260	5	3,258	5	17	147,800.66	9	8	31,771.60	60	10	4	150	5	53
54	2nd So. Worcester, Uxbridge	283	83	32	32	4	0	0	83	274	2,872	155	0	49	4	23	23	1,620	998	0	86	16	278	3	295	1	14	29,153.88	12	5	32,111.83	42	17	5	53	100	54
55*	Natick	334	35	17	7	32	3	0	147	455	2,055	58	0	50	0	61	12	1,013	861	163	35	8	230	2	4,876	0	9	40,374.57	6	13	15,729.38	45	7	1	26	34	55
56	2nd Barnstable, Orleans	503	17	44	24	19	1	1	170	1,250	7,401	406	0	258	8	167	28	4,717	1,817	21	205	33	444	0	14,580	5	7	54,181.73	11	4	38,224.73	16	1	0	18	15	56
57	3rd So. Worcester, Milford	424	162	109	97	20	0	0	147	634	2,493	137	1	51	1	73	27	1,470	733	395	61	6	197	3	6,545	3	21	61,048.32	7	9	25,116.25	45	15	9	38	43	57
58*	Newburyport	300	32	58	23	18	0	0	75	531	3,746	120	1	68	3	206	19	2,278	951	429	112	32	342	1	5,269	2	25	74,419.00	2	5	25,160.25	10	2	0	15	3	58
59*	West, Worcester, E. Brookfield	123	14	22	15	5	0	0	111	516	1,849	85	0	31	0	32	12	1,227	442	0	78	4	170	15	81	0	6	22,941.97	17	9	15,318.91	33	10	4	42	60	59
60*	No. Berkshire, No. Adams	119	6	31	0	2	0	0	212	514	986	2	13	45	0	23	6	435	459	205	40	4	208	3	3,398	0	10	167,669.82	5	4	18,519.73	10	0	0	0	0	60
61*	Lee	92	2	13	5	4	0	0	11	[illegible]	3,485	40	0	99	0	88	7	2,825	426	38	76	4	215	11	445	1	6	24,985.00	1	4	10,594.00	11	0	1	2	13	61
62*	Second Essex, Amesbury	254	91	97	75	4	0	0	74	330	3,079	38	0	142	4	54	22	2,127	692	0	186	8	216	1	0	97	97	59,265.86	9	3	16,975.56	13	6	3	12	2	62
63*	Fourth Berkshire, Adams	65	32	10	10	3	0	0	30	329	1,089	36	0	35	0	64	6	723	225	139	31	3	1105	1	1,079	0	24	55,238.00	3	1	10,601.67	8	12	1	12	4	63
64	Charlestown	323	13	215	40	18	1	0	107	347	1,110	9	9	15	0	18	27	477	555	2,702	62	10	127	1	3,760	0	25	51,918.13	4	4	11,330.60	21	8	1	66	24	64
65*	So. Berkshire, Great Barrington	113	30	15	9	5	0	0	46	339	2,537	8	0	126	1	45	4	1,742	611	0	61	2	44	2	74	0	19	45,780.00	12	7	18,507.25	4	4	2	4	1	65
66*	Third Essex, Ipswich	50	7	9	6	4	1	0	25	167	583	44	7	37	0	32	0	287	176	73	23	8	59	0	6	0	3	13,341.00	3	2	8,554.98	18	3	0	30	6	66
67*	East, Franklin, Orange	24	6	5	3	0	0	0	45	127	671	10	0	23	0	20	8	447	163	0	10	1	59	3	0	1	19	14,111.51	0	4	5,470.00	0	0	0	0	0	67
68*	Williamstown	25	4	4	4	4	0	0	8	217	1,245	16	0	16	0	8	0	1,043	126	242	5	5	39	0	648	0	3	2,260.00	0	4	4,792.03	1	0	0	0	0	68
69*	East, Hampshire, Ware	63	18	4	4	2	0	0	16	215	372	2	0	12	0	16	1	170	171	0	16	2	54	2	267	0	9	4,215.00	6	0	10,031.35	1	2	0	2	2	69
70*	Winchendon	37	4	6	6	2	0	0	13	226	558	56	0	27	0	6	10	257	202	0	83	2	91	0	107	0	6	8,458.00	3	2	6,825.00	11	2	0	8	8	70
71*	Dukes, Edgartown	99	24	4	4	1	0	0	35	395	1,445	9	0	42	0	39	7	999	349	334	39	2	71	0	6,755	0	0	1,232.34	4	5	9,100.00	0	0	0	0	3	71
72*	Nantucket	37	4	2	1	4	0	0	2	166	468	7	0	21	1	23	2	230	184	156	19	0	87	0	3,138	0	0	0	2	3	11,529.00	0	0	0	0	2	72
	TOTALS	67,817	8,674	13,245	4,473	3,910	95	11	32,503	94,723	533,661	14,921	1,577	14,583	318	12,230	5,082	348,821	136,129	510,466	14,999	1,572	33,481	525	1,981,580	2,332	3,485	7,741,593.11	1,434	1,499	4,515,191.12	7,202	2,615	847	9,016	8,727	

* Indicates a court with a part-time Justice.

† "All other criminal complaints" is reported this year for the first time. It may be calculated for earlier years, however, by subtracting from "Total criminal complaints (except parking)" the sum of "Narcotics," "Drunkenness," "Gaming," "Operating under the influence of liquor," "Operating under the influence of drugs," "Operating so as to endanger," "Using without authority" and "All other motor vehicle complaints (except parking)."

Note: "Drunkenness," reported in earlier years, is no longer a crime. See Chapter 1076 of the Acts of 1971, effective July 1, 1973.

Appendix B.—15

MASSACHUSETTS DEFENDERS COMMITTEE

DISTRICT COURTS

REPORT OF CASES OF DEFENDANTS WHO WERE ASSIGNED BY COURTS TO BE REPRESENTED BY MDC AND DISPOSITIONS OF SUCH CASES.

7/1/73 to 6/30/74 (Period)

DEFENDANTS ASSIGNED BY COURTS:	COUNTIES														
	SUFFOLK	MIDDLESEX	NORFOLK	BRISTOL	DUKES	NANTUCKET	ESSEX	BERKSHIRE	PLYMOUTH	BARNSTABLE	HAMPDEN	HAMPSHIRE	FRANKLIN	WORCESTER	TOTALS
Pending at beginning	3039	1858	2394	257	2	0	4107	343	796	65	577	25	0	128	15457
Pending at end	4002	2363	2896	331	10	0	4392	399	1440	219	620	19	16	491	16587
Received in period	5610	1532	2	1034	18	0	1740	1205	3327	938	2854	576	80	2381	20229
Disposed in period	4649	997	0	963	10	0	1457	1120	2782	784	2231	62	64	2019	17128
Charges involved	7470	1825		2514	20	-	2712	1778	6230	1462	4454	108	160	4086	32825
Defts. Not Represented	935	256		205	2	-	278	66	418	163	327	1	0	156	2807
Charges involved	1589	455		533	3	-	556	123	841	192	628	1	0	382	5307
Defts. Represented	3707	741		758	8	-	1177	1054	2369	621	1704	61	64	1862	14324
Charges Involved	5882	1370		2253	17	-	2156	1765	5389	1220	3521	107	160	3678	27519
Defendants Tried	3379	694		614	7		1049	823	2221	566	1704	61	64	1496	12718
Defendants Released	3049	559		499	6		958	835	2068	528	1579	59	58	1305	11584
Defts. Committed	270	86		115	1		91	88	141	38	125	2	6	181	1164
Charges involved	5282	1187		1287	14		1859	1574	5032	1139	3178	107	160	3383	24487
Dismissed	2328	365		428	2		183	441	1099	162	1248	54	23	351	6689
Filed w/o a finding	14	2		17						9	24			25	91
Cont'd w/o finding	3			16			437	218	956	109	251	3		379	2371
Not Guilty	555	121		59	1		110	97	286	110	197	3	3	376	1918
Guilty Less.Offense	42	3		52			16				46				159
Guilty as charged	2831	696		1155	11		1243	818	2241	749	1482	47	134	1752	12859
Dispositions of all Guilty Findings:	3273	699		1307	11		1339	818	2241	749	1458	47	134	1752	13118
Probation	335	112		39			199	14	546	97	274	21	6	256	1599
Filed	635	97		457	3		164	225	672	132	143	3	14	488	3024
Fined	376	180		165	3		350	237	518	268	449	8	44	471	3069
Youth Serv., Susp'd	128	31					43	25	149	3	116		1	110	649
Youth Serv.Committed	150	50		3			48	73	49		30	1	12	98	514
HC under 6 mo.Susp'd	73	32		76			247	145	310	103	175	12	12	92	1247
HC under 6 mo.Comm'd	45	23		45			57	86	69	34	77	2	17	121	540
HC 6 mo.-1 yr.Susp'd	86	51		103	1		59	24	196	61	76		3	33	693
HC 6 mo.-1 yr.Comm'd	48	23		114	1		24	22	106	26	53		21	23	461
HC 1 yr.& more,Susp.	155	46		75	3		14	2	89	13	50		2	23	472
HC 1 yr.& more,Comm.	135	37		120			26	6	89	12	15		2	23	464
Mass.Corr'l Inst.Susp.	6	7					8								21
Mass.Corr'l Inst.Comm.	24	10		9			20		5					4	72
State Farm Committed	3														3
Sentences Accepted	3453	698		597	6		931	856	2895	506	1554	61	64	1334	11667
Charges involved	4823	936		1562	13		1872	1468	4644	1027	2947	107	160	2595	22296
Sentences Appealed	226	86		67	1		56	67	186	60	150	-	-	152	1051
Charges involved	344	151		165	1		117	106	368	110	231	-	-	289	1901

Defendants referred to TASC 10

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